

**CANCELLED**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

Art Group: 2617

2007 APR 17 1 45 PM

Paul Petrus

Examiner: Sheila B. Smith

Application No.: 09/668,664

Filing Date: September 22, 2000

For: **METHOD AND APPARATUS FOR  
DETERMINING AN OPERATING CONDITION IN A  
COMMUNICATIONS SYSTEM**

Mail Stop 16  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**REQUEST FOR REFUND**

**I. REFUND REQUEST**

This is a request for refund, with respect to check number 0664 for \$840.00 which was filed on January 5, 2007, for the above-identified application.

**II. FEES PAID FOR WHICH REFUND REQUESTED**

RCE fee of \$790.00.

**III. EXPLANATION OF WHY CONTESTED CHARGE IS IN ERROR**

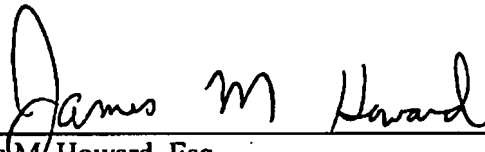
An RCE was filed on January 5, 2007 in the above application because the Office Action mailed from the PTO on October 6, 2006 indicated that it was "Final". Applicant subsequently received a Notice of Improper Request for Continued Examination (RCE) which indicated that the RCE was improper because the Office Action was actually non-final, and that the reply submitted with the RCE would be entered and considered by the Examiner as such. Therefore, Applicant respectfully requests a refund for the RCE payment.

**IV. MANNER OF REFUND**

Please refund payment to Applicant's Deposit Account No. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: April 13, 2007

  
James M. Howard, Esq.  
Reg. No. 56,377

12400 Wilshire Boulevard, 7<sup>th</sup> Floor  
Los Angeles, CA 90025  
Telephone: (503) 439-8778

RCE/JFW

IP E  
AN 08 2007  
TRADEMARK

## REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

Application No. 09/668,664  
Filing Date September 22, 2000  
First Named Inventor Paul Petrus  
Art Unit 2617  
Examiner Name Smith, Sheila B.  
Attorney Docket No. 015685.P068

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See instruction sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 C.F.R. § 1.114** – Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
  - a. ☐ Previously submitted If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
    - i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
    - ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
    - iii. ☐ Other \_\_\_\_\_
  - b. ☒ Enclosed
    - i. ☒ Amendment/Reply
    - ii. ☐ Affidavit(s)/Declaration(s)
    - iii. ☐ Information Disclosure Statement (IDS)
    - iv. ☐ Other \_\_\_\_\_
2. **Miscellaneous**
  - a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months. Fee under 37 C.F.R. § 1.17(l) required)
  - b. ☐ Other \_\_\_\_\_
3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by C.F.R. § 1.114 when the RCE is filed.
  - a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 02-2666
    - i. ☐ RCE fee required under 37 C.F.R. § 1.17(e)
    - ii. ☐ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
    - iii. ☐ Processing fee under 37 CFR § 1.17(l) for Limited Suspension of Action
    - iv. ☐ Other \_\_\_\_\_
  - b. ☒ Check in the amount of \$ 790.00 enclosed
  - c. ☐ Payment by credit card (Form PTO-2038 enclosed).  
**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type) Jan Little-Washington Registration No. (Attorney/Agent) 41,181  
Signature Jan Little-Washington Date 1/5/2007

### CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type) Yuko Tanaka  
Signature Y. Tanaka Date January 5, 2007

Express Mail No. (only if applicable): \_\_\_\_\_

01/09/2007 MWLDGE1 00000042 09668664  
01 FC:1801 790.00 OP

Based on Form PTO/SB/30 (08-03) as modified by BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP on 09/10/03

001110700  
09668664  
\$790.00 CR

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application No.	09/668,664
		Filing Date	September 22, 2000
		First Named Inventor	Paul Petrus
		Art Unit	2617
		Examiner Name	Sheila B. Smith
Total Number of Pages in This Submission		Attorney Docket Number	15685P068

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply  <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> PTO/SB/08 <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Basic Filing Fee <input type="checkbox"/> Declaration/POA <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input checked="" type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">         - Return postcard       </div>
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	James M. Howard, Reg. No. 56,377 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	<i>James M. Howard</i>
Date	April 13, 2007

CERTIFICATE OF MAILING/TRANSMISSION			
I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.			
Typed or printed name	Gigi Hoover		
Signature	<i>Gigi Hoover</i>	Date	April 13, 2007

Based on PTO/SB/21 (09-04) as modified by Blakely, Sokoloff, Taylor & Zafman (ndc) 10/12/2006.  
 SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

# FEE TRANSMITTAL for FY 2006

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT

(\$)

## Complete if Known

Application Number	09/668,664
Filing Date	September 22, 2000
First Named Inventor	Paul Petrus
Examiner Name	Sheila B. Smith
Art Unit	2617
Attorney Docket No.	15685P068

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☒ None ☐ Other (please identify): \_\_\_\_\_  
☐ Deposit Account Deposit Account Number: 02-2666 Deposit Account Name: Blakely, Sokoloff, Taylor & Zafman LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayment of fee(s) ☒ Credit any overpayments  
under 37 CFR §§ 1.16, 1.17, 1.18 and 1.20.

## FEE CALCULATION

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1,000	2403	500	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
1809	790	1809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
SUBTOTAL (2)				(\$)	

## SUBMITTED BY

Name (Print/Type)	James M. Howard	Registration No. (Attorney/Agent)	56,377	Telephone	(503) 439-8778
Signature		Date	04/13/07		

Based on PTO/SB/17 (12-04) as modified by Blakely, Sokoloff, Taylor & Zafman (wtr) 12/15/2004.  
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